

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AG AND FOOD ASSOCIATES, LLC, a)
Nebraska limited liability company,)

Plaintiff,)

v.)

WHITEBOX ADVISORS, LLC, and)
RIVERLAND AG CORP., a corporation,)

Defendants.)

8:10CV202

MEMORANDUM AND ORDER

This matter is before the court on the findings and recommendation of the magistrate judge, Filing No. [18](#). The magistrate judge concluded that (1) the Domina Law firm should be permitted to withdraw as counsel for the plaintiff pursuant to [NEGenR 1.3\(f\)](#); and (2) the plaintiff, a corporation, failed to comply with the court's order to obtain counsel and to prosecute the case and, consequently, the case should be dismissed pursuant to Fed. R. Civ. P. 41(b) and [NECivR 41.2](#). Thereafter, defendants filed a motion to dismiss for the same reasons set forth in the magistrate judge's findings and recommendation. Filing No. [19](#). The plaintiff has not filed any objections to the findings and recommendation, nor has it filed any response to the motion to dismiss.

A district court reviews de novo those portions of a magistrate's order that are objected to by a party. [Grinder v. Gammon, 73 F.3d 793, 792 \(8th Circuit 1996\)](#). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(2006). A district court may reconsider a magistrate judge's ruling where it has

been shown that the ruling is clearly erroneous or contrary to law. [*Ferguson v. United States*, 484 F.3d 1068, 1076 \(8th Cir. 2007\)](#) (citing 28 U.S.C. § 636(b)(1)(A) (2006)).

The court has carefully reviewed the record and finds that the magistrate judge's recommendation should be adopted in all respects. The plaintiff clearly has not prosecuted this case, has not responded to court orders, and has not obtained counsel as ordered. Accordingly, the court finds the magistrate judge's report and recommendation should be adopted in its entirety.

THEREFORE, IT IS ORDERED that:

1. The findings and recommendation of the magistrate judge, Filing No. [18](#), is adopted in its entirety;
2. This case is dismissed in its entirety without prejudice; and
3. The motion to dismiss the complaint, Filing No. [19](#), is denied as moot.

DATED this 10th day of November, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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